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EXAMINER

TRUONG, THANHNGA B

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/804,811
Filing Date: March 13, 2001
Appellant(s): HOWES ET AL.

Morris I. Pollack
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 30, 2006 appealing from the Office action mailed July 27, 2005.

(1) Real Party in Interest

The statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct. Applicant's arguments, see appellant's remarks, filed March 30, 2006, with respect to ground of rejection - 35 USC § 112 have been fully considered and are persuasive. The rejection of second paragraph of 35 U.S.C. 112 has been withdrawn. The remaining of the grounds of rejection to be reviewed on appeal will be:

A. Claims 2-16, 18-32, 34-49, 52, and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Rose, Jr. (US 5,521, 815).

B. Claims 50, 51, and 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose, Jr. (US 5,521, 815), and further in view of Priddy (US 5,984,366).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,521,815	Rose	5-1996
5,984,366	Priddy	11-1999
4,879,747	Leighton et al	11-1989

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2-16, 18-32, 34-49, 52, and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Rose, Jr. (US 5,521, 815).

a. Referring to claim 49:

i. Rose teaches:

(1) computer login means for permitting a user to login to the system [i.e., referring to Figures 1A-1H, the computer is an open systems environment and can communicate with any other computer system. To access the computer, the authorized users (i.e., auto dealers, salvage dealers, insurance agents, and the DMV) have an authorized entry code which is transmitted from a remote terminal 2 via modem or RF device 4 to the data storage facilities 8, as shown in Figure 1A (column 11, lines 46-52)];

(2) encryption means for encrypting all said logins [i.e., a method of encryption can be used to further protect against fraudulent use of documentation produced by the central system (column 7, lines 60-61)];

(3) secure database means for receiving the login to verify and authenticate the user and computer login means [i.e., this is done in real time, with a relational data base with a high degree of security, fault tolerance and parallel processing. Furthermore, most items of value are insured, and this information may now be transmitted to the data base by any insurer. The transmission of data may also be performed by the dealer, the insurer, the manufacturer, or any other authorized entity. The system also requires that

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verification of the authenticity or value of the article be submitted initially and that once authenticated, it will only require updates to changes of ownership, condition, insurance, vehicle inspections, etc. (column 6, lines 55-63)]; and

(4) security number database means for assigning a unique security number for each article to be tracked [i.e., Rose's invention provides two variations of the system, one directed to articles having serial numbers or other identifying number assigned by the manufacturer, i.e. motor vehicles and boats; and the other directed to articles without manufacturer assigned serial numbers, such as artwork, antiques, and real estate. In the case of articles having serial numbers, the serial number is transmitted by an authorized agent to the centralized data base. The authorized agent may be the insurance agent, the authorized dealer, or any other agent authorized by the title company or government-authorized entity. The data base has, at a minimum, storage locations corresponding to each of the characters of the serial number, plus those necessary for expansion of the system to accommodate current or future changes to the VIN or title-related changes in federal and state law(s). The system then accesses the predetermined storage locations to assign a title number and a registration number that is identical to the serial number plus the original state of entry, origin or titling (column 5, lines 30-50)].

b. Referring to claim 2:

i. Rose further teaches:

(1) wherein said computer login means includes at least a data input means and a server means [i.e., to begin, the VIN is transmitted to the data base 12. Any other relevant data may also be input at this stage. For example, if available, the registration number, title number, and data on the owner may be input, (i.e., name and address, social security number or federal identification number (FID)) (column 11, line 66 through column 12, line 4)].

c. Referring to claim 3:

i. Rose further teaches:

(1) wherein said database means may include a plurality of sub and ancillary database means each associated to some or all of the others [i.e., referring to Figure 1B, external data base entities 6 (i.e., DMV, insurance companies, R. L. Polk Co., salvage recyclers, court systems, state and local revenue systems, banks, finance companies, state and local police, vehicle repair, National Auto Theft Bureau etc.) also have security coded access 10 to the data storage facilities 8 (column 11, lines 55-60)].

d. Referring to claim 4:

i. Rose further teaches:

(1) wherein either said secure database means, or components thereof may be accessible through the internet [i.e., the centralized computer data bases are connected via computer modem/RF device, or other telecommunication device to all parties ordinarily involved in transactions relating to the article. For example, in the case of a motor vehicle, the centralized data base may be connected via computer modem/RF system and/or telephone lines to the insurance agent, the car dealer, and the DMV. In the case of artwork, the centralized data base may be connected to the art dealers, and insurance companies. In the case of real estate, the centralized data base may be connected to the Land Courts and to the Registry of Deeds (column 5, lines 13-23)].

e. Referring to claim 5:

i. Rose further teaches:

(1) said security database means develops and maintains a chronological history of each article being tracked from the creation of that article at least until it is destroyed [i.e., once the title number and registration number are assigned (and the shortened registration number, when applicable) are created, the computer now is able to access an unlimited, title history file to record all important transactions pertaining to the article in a congruent and continual manner. The title history will, in general, include a list of all previous owners, the current owner, dates of purchase Bill of Sale, purchase prices,

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records of reported accidents or thefts, photo-images of the item or vehicle-original condition plus updated photo-images to show ongoing conditions as they may apply, including photo images and information on the authorized drivers and owners of the particular vehicle, and any other information which may be relevant, depending upon the type of article involved. For a simple example, in the case of the motor vehicle the title includes the odometer reading at each transaction. In the case of artwork, or antiques, the title indicates the type of verification shown to the insurance company or title company to authenticate the article (column 7, lines 15-33)].

f. Referring to claim 6:

i. Rose further teaches:

(1) wherein said security database means is accessible upon request by specified users to update and retrieve data concerning said chronological histories [i.e., referring to Figure 1C, assuming no such problem exists, the computer accesses the existing title history 100. It then determines the nature of the transaction at hand by asking the following series of questions: whether the purchase is new 102, i.e., the sale of a brand new vehicle; whether it is a sale of a used vehicle 104; whether it is an update to an existing registration 106; and whether there has been an accident 108 (column 13, lines 15-22)].

g. Referring to claim 7:

i. This claim has limitations that is similar to those of claim 6, thus it is rejected with the same rationale applied against claim 6 above.

h. Referring to claim 8:

i. Rose further teaches:

(1) wherein said security database means in addition includes data and information concerning equipment that includes such devices, mechanisms and the like which, in turn, include said articles to be tracked and which are accessible to specified users upon request [i.e., if it is a new purchase, the new owner information is input 110. If it is a sale of a used vehicle, the "current owner" is converted to the prior owner 112 and the new owner's name and

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address and other appropriate information are entered 114. In the case where the transaction is merely an update to an existing registration, the new data is input 115. This may be new data such as a change of address or change of insurance company (column 13, lines 23-30)].

i. Referring to claim 9:

i. This claim has limitations that is similar to those of claim 5, thus it is rejected with the same rationale applied against claim 5 above.

j. Referring to claim 10:

i. Rose further teaches:

(1) wherein said security database means includes business rules, data and information that are correlated to specified user requests such that only certain users can input, update and/or search only specified portions of said security database means [i.e., to access the computer, the authorized users (i.e., auto dealers, salvage dealers, insurance agents, and the DMV) have an authorized entry code which is transmitted from a remote terminal 2 via modem or RF device 4 to the data storage facilities 8, as shown in Figure 1A. This is done in real time, with a relational data base, with a high degree of security, fault tolerance and parallel processing. External data base entities 6 (i.e., DMV, insurance companies, R. L. Polk Co., salvage recyclers, court systems, state and local revenue systems, banks, finance companies, state and local police, vehicle repair, National Auto Theft Bureau etc.) also have security coded access 10 to the data storage facilities 8. Additional security may also provided in the form of remote bar code scanner input devices 12 and remote photo imaging input devices 14 (column 11, lines 48-62)].

k. Referring to claim 11:

i. This claim has limitations that is similar to those of claim 5, thus it is rejected with the same rationale applied against claim 5 above.

l. Referring to claim 12:

i. Rose further teaches:

(1) wherein the articles to be tracked are parts, subassemblies, assemblies, devices or mechanisms, or combinations thereof **[i.e., Rose's invention provides two variations of the tracking system, one directed to articles having serial numbers or other identifying number assigned by the manufacturer, i.e. motor vehicles and boats; and the other directed to articles without manufacturer assigned serial numbers, such as artwork, antiques, and real estate (column 5, lines 30-35)]**.

m. Referring to claims 13-16, 28-32, 44-48:

i. These claims have limitations that is similar to those of claim 12, thus they are rejected with the same rationale applied against claim 12 above.

n. Referring to claim 52:

i. This claim has limitations that is similar to those of claim 49, thus it is rejected with the same rationale applied against claim 49 above.

ii. Rose further teaches:

(1) said unique security number being applied directly to the article to be tracked and being of the material of said article **[i.e., one directed to articles having serial numbers or other identifying number assigned by the manufacturer, i.e. motor vehicles and boats (column 5, lines 30-33 and more details in column 5, lines 47-63)]**.

o. Referring to claims 18, 34:

i. These claims have limitations that is similar to those of claim 2, thus they are rejected with the same rationale applied against claim 2 above.

p. Referring to claims 19, 35:

i. These claims have limitations that is similar to those of claim 3, thus they are rejected with the same rationale applied against claim 3 above.

q. Referring to claims 20, 36:

i. These claims have limitations that is similar to those of claim 4, thus they are rejected with the same rationale applied against claim 4 above.

r. Referring to claims 21, 37:

i. These claims have limitations that is similar to those of claim 5, thus they are rejected with the same rationale applied against claim 5 above.

s. Referring to claims 22, 38:

i. These claims have limitations that is similar to those of claim 6, thus they are rejected with the same rationale applied against claim 6 above.

t. Referring to claims 23, 39:

i. These claims have limitations that is similar to those of claim 7, thus they are rejected with the same rationale applied against claim 7 above.

u. Referring to claims 24, 40:

i. These claims have limitations that is similar to those of claim 8, thus they are rejected with the same rationale applied against claim 8 above.

v. Referring to claims 25, 41:

i. These claims have limitations that is similar to those of claim 9, thus they are rejected with the same rationale applied against claim 9 above.

w. Referring to claims 26, 42:

i. These claims have limitations that is similar to those of claim 10, thus they are rejected with the same rationale applied against claim 10 above.

x. Referring to claims 27, 43:

i. These claims have limitations that is similar to those of claim 11, thus they are rejected with the same rationale applied against claim 11 above.

y. Referring to claim 53:

i. This claim has limitations that is similar to those of claim 49, thus it is rejected with the same rationale applied against claim 49 above.

z. Referring to claim 54:

i. This claim has limitations that is similar to those of claims 49 and 52, thus it is rejected with the same rationale applied against claims 49 and 52 above.

ii. Rose further teaches:

(1) authenticating and verifying each such login [i.e., **The transmission of data may also be performed by the dealer, the insurer, the**

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manufacturer, or any other authorized entity. The system also requires that verification of the authenticity or value of the article be submitted initially and that once authenticated, it will only require updates to changes of ownership, condition, insurance, vehicle inspections, etc (column 6, lines 57-63)].

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 50, 51, and 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose, Jr. (US 5,521, 815), and further in view of Priddy (US 5,984,366).

a. Referring to claim 50:

i. Rose further teaches:

(1) wherein the articles to be tracked are marked with a matrix-type encoded symbology [i.e., the new plate (registration) is encoded to the VIN/title number and if three alpha symbols and six numeric symbols are used, there are up to 17.576.times.10.sup.9 possible combinations that must be assigned and verified by the computer program in order to avoid redundancy. This number can be expanded or reduced depending upon the particular items being registered using the encoding system. After the initial step of assigning the serial number or VIN of the article as the title number, all three numbers, the VIN; the title number and the registration number are congruent (column 6, lines 21-31)].

ii. Although Rose teaches the tracking article using the encoded system, Rose is silent about encoded with data matrix. On the other hand, Priddy teaches:

(1) The machine-readable data set is preferably configured as an optically readable binary code forming at least one matrix (or array). The matrices are commonly referred to as two-dimensional bar codes or matrix codes **(column 3, lines 41-44 of Priddy)**. Referring to Figure 3 for further details on encoding system using data matrix and column 6, lines 53-67 and column 7, lines 1-17 of Priddy).

iii. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to:

(1) have combined the teaching of Priddy into Rose's tracking system to provide a centralized uniform system for maintaining up-to-date and accurate titles of all objects of value throughout that object's life-cycle **(column 4, lines 21-24 of Rose)**.

iv. The ordinary skilled person would have been motivated to:

(1) have combined the teaching of Priddy into Rose's tracking system to reduce the incidence of fraud involved within the titling process and with the issuance of false titles to articles of value **(column 4, lines 25-27 of Rose)**.

b. Referring to claims 51, 55-56:

i. These claims have limitations that is similar to those of claim 52, thus they are rejected with the same rationale applied against claim 52 above.

(10) Response to Argument

I. Applicant's arguments, see appellant's remarks, filed March 30, 2006, with respect to Claim Rejections - 35 USC § 112 have been fully considered and are persuasive. The rejection of second paragraph of 35 U.S.C. 112 has been withdrawn.

II. Applicant's arguments filed March 30, 2006, with respect to Claim Rejections - 35 USC § 102 (b) and 35 USC § 103(a) have been fully considered but they are not persuasive.

III. Regarding to the Appellant's arguments to claims 49, 53, and 54 that Rose does not describe, show or suggest encryption of login data (e.g., authorized entry code). Examiner disagrees with the appellant for the above argument, according to Rose's Figure 1A-1H, these figures show a flow chart of the system for handling

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transactions relating to motor vehicles. The computer is an open systems environment and can communicate with any other computer system. **To access the computer, the authorized users (i.e., auto dealers, salvage dealers, insurance agents, and the DMV) have an authorized entry code (emphasis added)** which is transmitted from a remote terminal 2 via modem or RF device 4 to the data storage facilities 8, as shown in Figure 1A. This is done in real time, with a relational data base with a high degree of security, fault tolerance and parallel processing. External data base entities 6 (i.e., DMV, insurance companies, R. L. Polk Co., salvage recyclers, court systems, state and local revenue systems, banks, finance companies, state and local police, vehicle repair, National Auto Theft Bureau etc.) also have security coded access 10 to the data storage facilities 8. Additional security may also provided in the form of remote bar code scanner input devices 12 and remote photo imaging input devices 14. This security means can easily be accomplished using known technology, including that disclosed in incorporated by reference, U.S. Pat. No. 4,879,747 to Leighton et al (column 11, lines 45-65 of Rose). The technology of encrypting logins is taught by Leighton, wherein each authorized user of a card is assigned a password having a portion thereof which is generated from a representation of some non-secret or "public" characteristic of the user. The password is then processed to produce a digital "signature" which, along with the password, is thereafter stored on the card. To authorize a transaction at a transaction terminal, the digital signature from a received card must first be shown to have been generated from the password on the received card. The password is also processed at the transaction terminal to display a representation of the "public" characteristic encoded thereon. The public characteristic is then verified by an operator of the transaction terminal before a transaction is authorized. It is very difficult to create a valid signature for any personal data without the proper private key, although it is simple for anyone to verify whether or not the signature for a password on the card is authentic, even without the private key. Only a card issuer can thus make a valid card and only a user with matching personal characteristics can use the card (column 2, lines 3-24 of Leighton). Thus, Rose's reference that incorporates Leighton's reference teaches the claimed "encryption means

for encrypting logins” (Ultradent Prods., Inc. v. Life-Like Cosmetics, Inc, 127 F.3d 1065, 44 USPQ 2d 1336 – Fed. Cir. 1997)

IV. Regarding to the Appellant’s arguments to claims 2-16 depends either directly or indirectly from claim 49; and 34-48 and 56 depends either directly or indirectly from claim 54, that are similar subject matter to those of claims 49 and 54, therefore they are rejected with the same reasons as given above for claims 49 and 54.

V. Regarding to the Appellant’s arguments to claims 12, 28, and 44 that the article to be tracked are parts, subassemblies, assemblies, devices or mechanisms. Rose does not show or describe a system for tracking such articles. Examiner disagrees with the appellant for the above argument, since Rose’s invention relates to data processing methodology and apparatus for effecting a universal, uniform system for tracking transactions for items of value, such as motor vehicles, boats, antiques, artwork, and real property. More precisely, it relates to a computerized system by which all current systems are converted in a uniform manner to a unique but universal system, by creating and then centralizing, that single system as the single source of the tracking system so that data may be input from a variety of sources and accurate, up-to-date titles and registrations may be created and issued in a congruent and continual manner. Once verified as to authenticity and converted from the current system(s) titles may then be created and re-issued and/or, if the article is new, put directly on the proposed system (column 1, lines 10-25 of Rose). Thus, Rose teaches the claimed “the article to be tracked are parts, subassemblies, assemblies, devices or mechanisms”.

VI. Regarding to the Appellant’s arguments to claim 52 that the unique security number is applied directly to the article to be tracked and being of the material of the article. Rose neither shows, describes or suggests that the serial number applied to the article is applied directly to the article and is of the material of the article. Examiner disagrees with the appellant for the above argument, since Rose’s system accesses the predetermined storage locations to assign a title number and a registration number that is identical to the serial number plus the original state of entry, origin or titling. In cases where the title number is too long to place on the article itself, the computer may assign a shortened version of the registration number to be affixed to

the goods, i.e., in the case of a motor vehicle, the shortened version of the registration number would be printed on the license plate. However, a bar-coded version (or similar encoding method) with the complete title number will be affixed to said registration plate. Since manufacturer's serial numbers are often coded to reveal various information, such as the year of manufacture, etc. that information is automatically indicated on the registration number or the title number. In this manner, the title, the registration and the VIN are tied directly to the vehicle and cannot be switched without easy and immediate detection (column 5, lines 45-63 of Rose). Thus, Rose teaches the claimed "the unique security number is applied directly to the article to be tracked and being of the material of the article".

VII. Regarding to the Appellant's arguments to claims 18-32 depends either directly or indirectly from claim 52, therefore they are rejected with the same reasons as given above for claim 52.

VIII. Regarding to the Appellant's arguments to claims 50 and 55 that the articles to be marked are so marked with a matrix-type encoded. Rose neither shows, describes or suggests utilizing matrix-type encoded symbology or direct part marking. Examiner disagrees with the appellant for the above argument, since Rose teaches the new plate (registration) is encoded to the VIN/title number and if three alpha symbols and six numeric symbols are used, there are up to 17.576×10^9 possible combinations that must be assigned and verified by the computer program in order to avoid redundancy. This number can be expanded or reduced depending upon the particular items being registered using the encoding system. After the initial step of assigning the serial number or VIN of the article as the title number, all three numbers, the VIN; the title number and the registration number are congruent (column 6, lines 21-31 of Rose). Although Rose teaches the tracking article using the encoded system, Rose is silent about encoded with data matrix. On the other hand, Priddy teaches the machine-readable data set is preferably configured as an optically readable binary code forming at least one matrix (or array). The matrices are commonly referred to as two-dimensional bar codes or matrix codes (column 3, lines 41-44 of Priddy). Referring to Figure 3 for further details on encoding system using data matrix and column 6, lines

53-67 and column 7, lines 1-17 of Priddy). Thus, the combination of teachings between Rose and Priddy teach the claimed "the articles to be marked are so marked with a matrix-type encoded".

IX. Regarding to the Appellant's arguments to claims 51 and 56 depends either directly or indirectly from claims 50 and 55, therefore they are rejected with the same reasons as given above for claims 50 and 55. There was a typographical error in claim 56. Since claim 56 has similar subject matter as claim 51, which is rejected in the previous office action, therefore it is rejected with the same reasons as given above for claim 51.

The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of teachings between Rose and Priddy is sufficient.

Rose and Priddy do not need to disclose anything over and above the invention as claimed in order to render it unpatentable or anticipate. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claimed limitations.

For the above reasons, it is believed that the rejections should be sustained.

(11) Related Proceeding(s) Appendix


No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Respectfully submitted,

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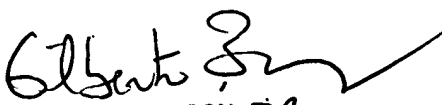
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June 1st, 2006

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